

THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

KENNETH HARRIS,	:	
	:	CIVIL ACTION NO. 1:20-CV-1469
Petitioner,	:	(JUDGE MARIANI)
	:	(Magistrate Judge Carlson)
v.	:	
	:	
JAUREGUI, et al.,	:	
	:	
Respondents.	:	

ORDER

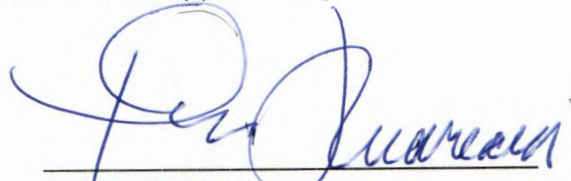
AND NOW, THIS 24<sup>th</sup> DAY OF SEPTEMBER 2020, upon review of Magistrate Judge Martin C. Carlson's Report and Recommendation ("R&R") (Doc. 6) for clear error or manifest injustice, and review of Petitioner's request for appointment of counsel (Doc. 7 at 1) and Application to Proceed *In Forma Pauperis* (Doc. 8), **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 6) is **ADOPTED** for the reasons set forth therein;
2. Based on the Court's adoption of the R&R and the Magistrate Judge's recommendation to dismiss this case without prejudice (Doc. 6 at 12), Petitioner's request for appointment of counsel (Doc. 7 at 1) is **DENIED**;<sup>1</sup>

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<sup>1</sup> In a document filed on September 8, 2020, Petitioner raises no objections to the Report and Recommendation but requests that the Court assign him an attorney. (Doc. 7 at 1.) District courts have "broad discretion to determine whether appointment of counsel is warranted and the determination must be made on a case-by-case basis." *Tabron v. Grace*, 6 F.3d 147, 153 (3d Cir. 1993). *Tabron* further advised that "[i]f it appears that an indigent plaintiff with a claim of arguable merit is incapable of presenting his or her case, serious consideration should be given to appointing counsel." *Id.* at 156 (citations omitted).

3. Petitioner's Application to Proceed *In Forma Pauperis* (Doc. 8) is **GRANTED** for this filing only;
4. The Clerk of Court is directed to **DISMISS** the Petition (Doc. 1) **WITHOUT PREJUDICE**;
5. There is no basis for the issuance of a certificate of appealability.



Robert D. Mariani  
United States District Judge

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Given the current procedural posture of this case, appointment of counsel is not warranted and further discussion of the issue is unnecessary.